



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105 .

May 17, 1999

Certified Mail No. Z 246 515 384  
Return Receipt Requested

Mr. Richard Klein, Esq.  
9053 Soquel Drive, Suite B  
Aptos, California 95003

Re: Administrative Consent Order No. 99-05  
Caleus Devices Removal Site  
Hollister, California

Dear Mr. Klein:

This letter serves to notify you that the public comment period for the proposed administrative settlement advertised in the Federal Register (April 8, 1999, p.17179) pursuant to Paragraph #11 of EPA's Administrative Consent Order No. 99-05 (the "Order") has closed as of May 8, 1999. No comments were received by EPA regarding this matter. Therefore, EPA received no comments that disclose facts or considerations which indicate that this Order is inappropriate, improper or inadequate, and would require EPA to modify or withdraw its consent to this Order.

Administrative Consent Order No. 99-05 is hereby considered to be in effect as of the date of this letter, under the terms of Paragraph #12 of the Order which was agreed and consented to by the Respondents (The United States Navy, Helen Sperber, and Victor Edmundson) and EPA.

Enclosed with this letter is your copy of the executed Administrative Consent Order No. 99-05. If you have any questions regarding this letter, please contact Julia A. Jackson EPA Office of Regional Counsel, at (415) 744-1348.

Thank you for your cooperation in this matter.

Sincerely,

John Kemmerer, Chief  
Site Clean-Up Branch  
Hazardous Waste Management Division



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REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

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Certified Mail No.Z 246 515 385  
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Mr. Marvin D. Norman  
Office of the General Counsel  
Naval Facilities Engineering Command  
900 Commodore Drive  
San Bruno, California 94066-2402

Re: Administrative Consent Order No. 99-05  
Caleus Devices Removal Site  
Hollister, California

Dear Mr. Norman:

This letter serves to notify you that the public comment period for the proposed administrative settlement advertised in the Federal Register (April 8, 1999, p.17179) pursuant to Paragraph #11 of EPA's Administrative Consent Order No. 99-05 (the "Order") has closed as of May 8, 1999. No comments were received by EPA regarding this matter. Therefore, EPA received no comments that disclose facts or considerations which indicate that this Order is inappropriate, improper or inadequate, and would require EPA to modify or withdraw its consent to this Order.

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Enclosed with this letter is your copy of the executed Administrative Consent Order No.99-05. If you have any questions regarding this letter, please contact Julia A. Jackson EPA Office of Regional Counsel, at(415)744-1348.

Thank you for your cooperation in this matter.

Sincerely,

John Kemmerer, Chief  
Site Clean-Up Branch  
Hazardous Waste Management Division

**Enclosures**

William Keener  
Attn: Julia A. Jackson  
Office of Regional Counsel, RC-3  
United States Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105  
(415) 744-1348

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the matter of:	)	
United States, Department of	)	
The Navy; and	)	
Helen Sperber; and	)	ADMINISTRATIVE
Victor Edmundson	)	CONSENT ORDER
Respondents	)	
	)	No. 99-05
Proceeding Under Section 122(h)(1)	)	
of the Comprehensive Environmental	)	
Response, Compensation and Liability)	)	
Act of 1980 (42 U.S.C. §9622(h)(1)	)	
as amended by the Superfund	)	
Amendments and Reauthorization	)	
Act of 1986	)	

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This Order is issued by the United States Environmental Protection Agency ("EPA") and is agreed to by The United States Department of the Navy, Helen Sperber, and Victor Edmundson ("Respondents"). The purpose of this Order is for EPA to recover response costs incurred by the United States at or in connection with the Caelus Devices Superfund removal site, ID # 091T, ("Site") in Hollister, California, and to resolve the liability of the Respondents for such response costs. The Site, located at 2707 Santa Ana Valley Road, Hollister, California, formerly served as a manufacturing facility for military explosive devices.

EPA is authorized to enter into this Order pursuant to the authority vested in the Administrator of the EPA by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("CERCLA"), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Sept. 13, 1987), and redelegated to the Director, Hazardous Waste Management Division, EPA Region IX.

WHEREAS, EPA alleges that hazardous substances as defined by

Section 101(14) of CERCLA, 42 U.S.C. section 9601(14), were present at the Site and that such hazardous substances were or were threatened to be released into the environment from the Site;

WHEREAS, EPA alleges that the Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. section 9601(9);

WHEREAS, EPA alleges that such releases or threatened releases required a response action to be undertaken at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. section 9604;

WHEREAS, EPA alleges that in performing this response action, it has incurred response costs at or in connection with the Site totaling \$138,234.20 as of January 27, 1992;

WHEREAS, EPA alleges that the response costs shall be borne by the Department of the Navy, Caelus Devices Bankruptcy Estate, Victor Edmundson, and Helen Sperber;

WHEREAS, EPA alleges that the Respondents are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. section 9607a.

WHEREAS, EPA received \$14,038.36 from its bankruptcy claim against Caelus Devices, filed under 11 United States Bankruptcy Code §§ 701-766.

WHEREAS, the Regional Administrator of EPA Region IX has determined that the total response costs incurred by the United States to date at or in connection with the Site do not exceed \$500,000, excluding interest, and that, based upon information currently available to EPA, total United States response costs at or in connection with the Site are not anticipated to exceed \$500,000, excluding interest, in the future; and

WHEREAS, EPA and the Respondents desire to settle certain claims arising from the Respondents' alleged involvement with the Site without litigation and without the admission or adjudication of any issue of fact or law;

NOW, THEREFORE, in consideration of the promises herein, and intending to be legally bound hereby, it is ordered and agreed as follows:

1. This Order shall be binding upon EPA and shall be binding upon the Respondents and their successors and assigns. Each signatory to this Order represents that he or she is fully authorized to enter into the terms and conditions of this Order and to bind legally the party represented by him or her. The Respondents agree to undertake all actions required by this

Order. The Respondents consent to the issuance of this Order and will not contest EPA's authority to enter into this Order or to implement or enforce its terms.

2. The Department of the Navy agrees to pay to the Hazardous Substance Superfund \$123,695.84, within 6 months of the effective date of this Order.

3. Helen Sperber and Victor Edmundson jointly agree to pay the Hazardous Substance Superfund a total of \$500.00 within thirty days of the effective date of this Order. If payment is received after thirty days, it shall include interest on the amount due, calculated from the date of Respondent's receipt of EPA's annual cost summary to the date of payment, at the rate established by the Department of the Treasury under 31 U.S.C. Section 3717 and 4 C.F.R. Section 102.13.

4. The Respondents' payments shall be made by certified or cashier's check made payable to "EPA-Hazardous Substance Superfund." The checks shall reference the name and address of the Respondent, the site name and identification number (Caelus Devices Removal Site, ID# 09 1T), and the EPA docket number (Number 94-14) for this action and shall be sent by the Respondents to:

EPA Region IX  
ATTN: Superfund Accounting  
P.O. Box 360863M  
Pittsburgh, PA 15251

5. Upon mailing their respective payments, the Respondents shall send copies of their checks to:

Karen Nelson  
Mail Code H-8-4  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

6. Upon payment of the amount specified in Sections 2 and 3 of this Order, EPA agrees that the Respondents shall have resolved any and all civil liability to EPA under Section 107(a) of CERCLA, 42 U.S.C. section 9607(a), for reimbursement of EPA response costs incurred at or in connection with the Caelus Devices Removal Site.

7. Nothing in this Order is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against the Respondents for:

a) any liability as a result of failure to make the payments required by Sections 2, 3, of this Order or other failure to comply with terms of this Order; or

b) any liability not expressly included in Section 7(a) above, including, without limitation any liability for i) injunctive relief at the Site; ii) response costs other than those incurred at or in connection with the Site; iii) damages for injury to or loss or destruction of natural resources.

8. Nothing in this Order is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a signatory to this Order.

9. The Respondents agree not to assert any claims or causes of action against the United States or the Hazardous Substance Superfund arising out of response activities undertaken at, or relating in any way to, the Site, or to seek any other costs, damages, or attorney's fees from the United States, its agencies, employees or contractors arising out of response activities undertaken at, or relating in any way to, the Site. The Respondents waive any right they might have to seek reimbursement from EPA pursuant to Section 106 of CERCLA, 42 U.S.C. §9606, for any costs pertaining to the Site.

10. With regard to claims for contribution against the Respondents for matters addressed in this Order, the parties hereto agree that the Respondents are entitled, as of the effective date of this Order, to such protection from contribution actions or claims as is provided in Section 122(h)(4) of CERCLA.

11. This Order shall be subject to a thirty-day public comment period pursuant to Section 122(i) of CERCLA. In accordance with Section 122(i)(3) of CERCLA, EPA may modify or withdraw its consent to this Order if comments received disclose facts or considerations which indicate that this Order is inappropriate, improper or inadequate.

12. The effective date of this Order shall be the date upon which EPA issues written notice to the Respondents that the public comment period pursuant to Section 13 of this Order has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Order.

13. Any obligation of the United States to pay funds pursuant to this Order shall be subject to the availability of

appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. §1341. This order shall not be construed to require federal agencies and/or the United States on behalf of federal agencies to pay funds in contravention of said Anti-Deficiency Act, 31 U.S.C. §1341. Should appropriated funds not be available to pay any amounts required of the Navy at the time such become due, EPA and the Navy shall agree to an appropriate extension of the payment date, and interest shall accrue at the statutory interest rate provided in CERCLA Section 107(a) on such unpaid amounts from the date payment was due until the time payment is made.

IT IS SO AGREED:

[Respondents]

By: [Signature]  
United States Department of The Navy

2/3/99  
Date

By: Helen Sperber  
Helen Sperber

2/15/99  
Date

By: [Signature]  
Victor Edmundson

2/15/99  
Date

The above being agreed and consented to, IT IS SO ORDERED

this 19th day of March, 1999.

U.S. Environmental Protection Agency

By: Keith Takata  
Keith Takata, Director  
Superfund Division  
Region IX